

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FELIX ESPINOSA-OSORIO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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1:19-cv-1139-RP
[1:18-CR-91(31)]

ORDER

Before the Court is Felix Espinosa-Osorio’s (“Petitioner”) application for habeas corpus relief under 28 U.S.C. § 2255. (Dkt. 1373). Petitioner appeared before United States Magistrate Judge Mark Lane to plead guilty pursuant to a plea agreement, and the plea was accepted. (*Id.* at 2). On May 2, 2019, Petitioner was sentenced to a term of imprisonment of 78 months, and he did not appeal his conviction. (*Id.*). Petitioner filed his motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 on November 20, 2019. (*Id.* at 2–3). In his motion, he argues that his defense counsel rendered ineffective assistance of counsel. (Dkt. 1373).

The case was referred to United States Magistrate Judge Mark Lane for findings and recommendations, pursuant to 28 U.S.C. § 636(b). Judge Lane filed his report and recommendation on September 10, 2020. (Dkt. 1396). The report and recommendation was sent via certified mail to Petitioner on the same day. (Dkt. 1397). The report and recommendation was delivered on September 14, 2020. (Dkt. 1398). As of the date of this order, no party has filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge’s proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district

court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, **IT IS ORDERED** that the report and recommendation of United States Magistrate Judge Mark Lane, (Dkt. 1396), is **ADOPTED**.

It is **FURTHER ORDERED** that Petitioner's application for federal writ of habeas corpus is **DISMISSED WITH PREJUDICE**.

It is **FINALLY ORDERED** that a certificate of appealability is **DENIED**.

SIGNED on November 9, 2020.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE